IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

Crl.MC.No. 1082 of 2007()

SC.1550/2001 of ADDL.SESSIONS COURT-TRIAL OF ABKARI ACT CASES,NEYYATTINKARA

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PETITIONER: ACCUSED

RAJAN.R., S/O.RAMAKRISHNAN,
KALLIYIL VEEDU, POZHIYOOR, KARODE VILLAGE,
NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1082 of 2007

Dated this the 3rd day of April 2007

O R D E R

The short contention of the petitioner is that he who faces indictment in a prosecution under Section 55(1) and Section 8(1) of the Kerala Abkari Act was really a juvenile on the date of commission of the offence and that in these circumstances the cognizance taken against him and the further proceedings that is going on before the learned Sessions Judge are all without jurisdiction and improper. It is submitted that though such a contention was attempted to be urged before the learned Sessions Judge, that contention was not considered by the learned Sessions Judge. It will be open to the petitioner to raise that contention before the learned Sessions Judge and needless to say the learned Sessions Judge must consider such contention and enter a finding on the question whether the petitioner is entitled for the protection of the provisions of the Juvenile Justice (Care &Protection of Children) Act, 2000. I have no reason to assume that if the petitioner files a proper application, the learned Sessions Judge would not consider the same.

2. With the above observation, this Criminal Miscellaneous Case is dismissed. Needless to say, the petitioner's option to challenge such order shall remain unfettered by the dismissal of this Criminal Miscellaneous Case.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006